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Paper No. 6

Joseph F. Schrader
22 Pearl Street
New Hartford, NY 13413

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JUN 2 6 2003

In re Application of
Joseph Schrader
Application No. 09/699,328
Filed: October 30, 2000
Title of Invention: ED ERGONOMICALLY
DESIGNED WALKER

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition filed November 25, 2002, under 37 CFR 1.137(b) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(b) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a timely reply to the Notice to file Missing Parts mailed January 4, 2001. The Notice to File Missing Parts set an extendable reply period of March 4, 2001. Extensions of time were not obtained under the provisions of 37 CFR 1.136 (a). This application became abandoned on March 5, 2001. A Notice of Abandonment was mailed on June 5, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (2).

As to item (2), petitioner has failed to provide the correct petition fee. Pursuant to 37 CFR 1.17(m) the fee to revive an unintentionally abandoned application for a small entity is \$650.00.

A review of the record shows applicant submitted a check in the amount of \$185.00. Petitioner allotted \$130.00 to go towards the petition fee and \$55.00 towards the terminal disclaimer fee. As stated above the petition fee for revival is \$650.00. Since the above-identified application was not filed prior to June 8, 1995, a terminal disclaimer is not required. As such the money provided will go towards the required reply to the Notice to File Missing Parts. Twenty five dollars (\$25.00) will be used to complete the

basic filing fee in the amount of \$370.00.¹ The Notice also required petitioner submit \$65.00 for the late filing of the filing fee. Thus \$65.00 of the money provided will be used towards the late filing fee. As such petitioner is left with \$95.00. On renewed petition applicant should submit \$555.00 to complete the required \$650.00 petition to revive fee.

Further correspondence with respect to this matter should be addressed as follows:

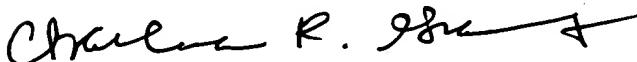
By mail: Mail Stop Petition
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(FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petitions Attorney
Office of Petitions

¹Petitioner is required to pay the filing fee that was in effect at the time the petition was submitted. Thus, petitioner is required to pay \$25.00 versus the \$10.00 that was required in 2001. The filing fee as of November 25, 2002 was \$370.00